REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 1 and 6-8 are pending. In the present amendment, Claim 1 is currently amended and Claim 4 is canceled without prejudice or disclaimer. Support for the present amendment can be found in the original specification, for example, at page 5, lines 7-13, at page 12, lines 7-12, and in original Claim 4. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claims 1 and 4-6 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 1, 4, 6, 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Komatsu et al. (U.S. Patent No. 3,930,041, hereinafter "Komatsu") in view of Ando (U.S. Patent No. 3,892,874).

This amendment is submitted in accordance with 37 C.F.R. § 1.116 which, after final rejection, permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment cancels Claim 4 and amends Claim 1 to include the subject matter of canceled Claim 4 to comply with the requirements of form expressed in the rejection under 35 U.S.C. § 112, second paragraph, in the Office Action dated December 3, 2008. Further, this amendment presents the claims in better form for consideration on appeal. Therefore, this amendment only includes subject matter which was earlier presented. Thus, no new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. § 1.116.

In response to the rejection of Claims 1 and 4-6 under 35 U.S.C. § 112, second paragraph, it is noted that amended Claim 1 no longer recites the term "immediately."

Further, Claim 1 is hereby amended to recite, in part, "packing the half-boiled noodles, after the boiling the noodles, while a temperature of a greater part of the half-boiled noodles, except an outside, is at least 80°C such that steam still adheres to the noodles" to clarify when the packing occurs. Support for this amendment can be found in the original specification, for example, at page 5, lines 7-13, at page 12, lines 7-12, and in original Claim 4. Thus, it is respectfully submitted that no new matter is added. In view of this amendment to Claim 1, it is believed that all pending claims are definite and no further rejection on that basis is anticipated. However, if the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

Turning now to the rejection under 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of this rejection and traverse this rejection, as discussed below.

Amended Claim 1 recites a method for manufacturing frozen or refrigerated half-boiled noodles. The method recited in Claim 1 comprises, in part, slow-cooling the sealed noodles at a slow-cooling speed of 1 to 5°C/min and a slow-cooling time of 15 to 90 minutes until a moisture content of the half-boiled noodles is uniform to permeate moisture from the outer alpha layer of the half-boiled noodles into an inside beta part of the half-boiled noodles.

As discussed previously, as a result of this slow-cooling, moisture is permeated from an outer alpha layer of the half-boiled noodles into an inside beta part of the half-boiled noodles such that a moisture content of the half-boiled noodles is uniform.[1] Thus, the claimed slow-cooling is a ***steaming process*** for half-boiled noodles, and is not a mere cooling process for the boiled noodles.

Accordingly, Applicants submit that the slow-cooling speed and time recited in Claim 1 are not obvious in view of the cited references. Additionally, boiling noodles into a half

[1] See the original specification, for example, at page 13, line 3 to page 14, line 12.

boiled state in which the moisture content is within the range of 45 to 60 percent, a lower than ordinary moisture content, and then steaming the noodles by "slow-cooling" is not obvious in view of the cited references.

In the claimed invention, as described in the original specification, noodles are first boiled into a half boiled state in which the moisture content is within the range of 45 to 60 percent, a lower moisture content rate than is ordinary. The above moisture content rate and a process of holding the half-boiled noodles in a hermetically sealed condition to bring the sealed space into a substantially saturated steamy condition, and the above "slow-cooling" speed and time are closely related each other. The above relation brings the following effect: in the status of holding the high temperature by the slow-cooling process, moisture can be constantly permeated into the core of the noodles of which only the surface is preprocessed into alpha by low rate of moisture content during the above slow-cooling process. This causes the moisture content of the half-boiled noodles to be maintained in a fixed low rate, thus causing no breakage of noodle texture due to expansion in volume during freezing. This also allows rapid-freezing, slow-freezing or refrigerative storage, and enables the claimed method to obtain frozen or refrigerated noodles of stable quality with constant moisture permeability that can be easily cooked in a short time.

It is respectfully submitted that the cited combination of references do not disclose or suggest every feature recited in amended Claim 1.

The claims are again rejected as unpatentable over Komatsu in view of Ando "for the reasons sated in the previous Office action." Specifically, the last paragraph on page 5 of the Office Action states that, "[s]ince Komatsu et al teaches heat sterilization treatment after overpressure cooling sealing step, and Ando teaches cooling the sealed cup with a resulting sterilizing effect, then it would have been obvious to one skilled in the art to modify the

teachings of Komatsu et al and to substitute heat sterilization step with cooling step in order to achieve same sterilization effect as taught by Ando."

The cited combination of references does not teach, and the Office Action does not state that they teach slow-cooling the sealed noodles at a slow-cooling speed of 1 to 5°C/min and a slow-cooling time of 15 to 90 minutes. Instead, the Office Action further states that it would have been obvious to vary the cooling speed to not damage the packaged article, to maintain uniformity of the product, and preserve the desired organoleptic properties.

However, the Office Action has not provided any evidence that the cited references recognized that the cooling speed and time affected the moisture rate of the noodles, and thus would not be a result-effective variable subject to optimization. See MPEP 2144.05 II.B. Although the Office Action gives many reasons why it would have been obvious to vary the cooling speed, the Office Action has provided no evidence that the cited references recognized varying the cooling speed for these reasons would result in the claimed slow-cooling speed or time. Further, as the package in Komatsu is flash-cooled and the noodles of Ando are dehydrated prior to cooling, the cited references, clearly do not recognize the cooling speed and rate as a variable to be optimized for the claimed uniform moisture content.

The Office Action appears to be arguing that it would be "obvious to try" optimizing every parameter recited in Claim 1. However, as noted in *In re Antonie*, "obvious to try" is not the standard of 35 U.S.C. § 103.[2] In order for a parameter to be optimized, the references must recognize the particular parameter as affecting the result it is to be optimized for.[3] As the cited combination of references does not recognize optimizing the cooling speed and time to allow the noodles to reach the claimed uniform moisture content, it is respectfully

[2] 195 USPQ 6 (C.C.P.A. 1977).
[3] See *In re Antonie*, 105 USPQ at 8.

submitted that it would not have been obvious to a person of ordinary skill in the art to modify the references to achieve the claimed slow-cooling.

Thus, Applicants respectfully submit that the combination of Komatsu as modified by Ando does not disclose or suggest "slow-cooling the sealed noodles at a slow-cooling speed of 1 to 5°C/min and a slow-cooling time of 15 to 90 minutes until a moisture content of the half-boiled noodles is uniform to permeate moisture from the outer alpha layer of the half-boiled noodles into an inside beta part of the half-boiled noodles," as recited in amended Claim 1. Therefore, it is respectfully requested that the rejection of Claim 1, and all claims dependent thereon, be withdrawn.

Claim 8 is dependent on Claim 1, and thus is believed to be patentable over the cited references for at least the reasons discussed above with respect to Claim 1. The Office Action rejects Claim 8 as unpatentable over Komatsu in view of Ando "for the reasons stated in the previous Office action." However, it is noted that Claim 8 was added after the previous Office Action. Accordingly, the previous Office Action did not reject Claim 8 and thus this rejection is not proper and should be withdrawn. Further, it is respectfully submitted that Claim 8 patentably defines over the cited combination of references for at least the reasons discussed below.

Claim 8 recites, in part, "the slow-cooling the sealed noodles includes slow-cooling the sealed noodles until the sealed noodles reach a temperature of 20°C to 30°C." Thus, the slow-cooling occurs until a predetermined temperature, and then the noodles are placed in refrigerative or freezing storage.

As discussed above, in the combination of references cited to reject Claim 1, the Office Action modifies "the teachings of Komatsu et al and to substitute heat sterilization step with cooling step in order to achieve same sterilization effect as taught by Ando."

However, even substituting the cooling step of Ando into the process described in Komatsu, such a combination does not disclose or suggest "the slow-cooling the sealed noodles includes slow-cooling the sealed noodles until the sealed noodles reach a temperature of 20°C to 30°C," as recited in Claim 8.

Instead, Ando describes a method of manufacturing instant-cooking seasoned noodles in which noodles are boiled to gelatinize the noodles, a seasoned liquid kept at 5°C or below is then sprayed on the noodles, and then the noodles are dipped into a hot edible oil at about 145°C for two minutes.[4] The noodles are then sealed into a container and passed into a cooling chamber at which time production is complete.[5]

Ando is silent with regards to the type of cooling chamber, but the last step of Claim 1 is "preserving the slow-cooled noodles in freezing or refrigerative storage." It is noted that an average refrigerator is generally kept just above 0°C, and a freezer is kept well below 0°C. Accordingly, if the cooling chamber is the last stage in production in Ando, then a person of ordinary skill in the art would understand the cooling chamber to be a refrigerator or freezer. Further, such a refrigerator or freezer would cool the noodles well below the claimed 20-30°C.

Accordingly, the combination of Komatsu and Ando does not disclose or suggest two different cooling processes (the claimed slow-cooling and preserving) in which the noodles are first slow-cooled to 20-30°C, and then moved into freezing or refrigerative storage. Thus, it is respectfully submitted that Claim 8 further patentably defines over the combination of Komatsu and Ando.

[4] See Ando, at column 3, lines 31-39.
[5] See Ando, at column 3, lines 41-47.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

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